

SUZANNE WALSH

IBLA 83-499

Decided August 24, 1983

Appeal from decision of the New Mexico State Office, Bureau of Land Management, rejecting high bid for a competitive oil and gas lease. NM A56285 (OK).

Set aside and remanded.

1. Oil and Gas Leases: Competitive Leases--Oil and Gas Leases:  
Discretion to Lease

The Secretary of the Interior has the authority to reject a high bid in a competitive oil and gas lease sale where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate.

2. Oil and Gas Leases: Competitive Leases--

The Bureau of Land Management acts as the Secretary's technical expert in matters concerning geologic evaluation of tracts of land offered at a sale of competitive oil and gas leases and the Secretary is entitled to rely on its reasoned analysis.

APPEARANCES: Suzanne Walsh, pro se.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Suzanne Walsh appeals the March 21, 1983, decision of the New Mexico State Office, Bureau of Land Management (BLM), which rejected her high bid for parcel 77 in the February 15, 1983, sale of competitive oil and gas leases. The reason given for the rejection was that the high bid was not adequate based on the presale evaluation.

Parcel 77 is a 40-acre tract in sec. 12, T. 15 N., R. 23 W., Indian meridian, Roger Mills County, Oklahoma.

In support of the appeal, Walsh challenges the presale evaluation as having little credibility because parcels which were used for comparison

are 2 and 3 miles to the northwest. She states that there is a dry hole and a plugged hole within three-fourths mile and one-half mile, respectively. She also asserts that nothing was mentioned concerning a communitization agreement.

The file contains the following recommendation for rejection of the high bid on parcel 77:

[P]arcel [77] is identified as a Known Geologic Structure in the Southeast Roll Field. The parcel received one bid for \$290.00 or \$7.25 per acre from Suzanne Walsh.

This parcel is within the 640.00 acre spacing of a successful Des Moines well, the Lovett A-1. This well was completed in June 1982 and is still active. The owner of this lease will share in the proceeds from that well.

The state received \$1,952.38 and \$2,350.52 per acre for land about two miles to the northwest on April 6, 1982. On October 5, 1982, they received \$1,825.99 per acre on land about three miles to the northwest.

Our pre-sale evaluation is based on these factors and is higher than the high bid received.

BLM has submitted two memoranda which evaluate the parcel. One memorandum dated April 13, 1983, specifically responds to the statement of reasons, pointing out that BLM's records indicate there was no communitization agreement either in effect or filed. With respect to the neighboring wells referred to in the statement of reasons, this memorandum states:

Directly south 1 mile is the Wickham #1, a plugged and abandoned well. It produced 82,091 MCF gas and 2,294 barrels of condensate from the Morrow at a depth about 200 feet shallower than the Lovett A-1. About 1-1/2 miles south, south-west and west are successful wells in the Red Fork about 200 feet deeper than the Lovett A-1. There are identified drilling locations about 1 mile to the northwest, north and southeast.

The second memorandum, dated May 5, 1983, corrects errors made in the first memorandum and states that in addition to the Des Moines, there are two other producing zones, the Morrow and the Red Fork, within 1 mile of the tract. The memorandum continues:

The well on this section, the Lovett A-1, has produced 174,539 Mcf of gas and 396 barrels of condensate up to February 1983. It is still actively producing according to Dwight's Energy Data, Inc. At an Incremental Pricing Threshold of \$2.11 per Mcf reported by the Department of Energy for June 1982, which is when this well began producing, the lessee will share about \$575 per acre. This is a conservative estimate of the accumulated gross income before taxes, royalties, or penalties are paid.

Monte Carlo discounted cash flow estimates were performed based on the Lovett A-1 and surrounding wells. The estimates include values of decline rates between 18 percent and 22 percent, reserves between 85,000 Mcf and 5,250,000 Mcf, drilling costs between \$948,076 and \$1,158,759, annual operating costs between \$11,610 and \$14,190, and prices between \$2.17 and \$4.48. A lessee who chose to join this well could probably be penalized twice the drilling costs. The technique was repeated with this parameter included. Both estimates agree with the range of published prices for oil and gas leases in this area which are summarized in this response.

By all indications, Federal state and private lease sales and engineering estimates based on the well, the Lovett A-1, the offered bid of \$7.25 per acre is inadequate. The appellant offers nothing but opinion to support the offered bid. There is no information offered from economic or engineering disciplines to counter our argument or to support the appellant.

[1] The Secretary of the Interior has discretionary authority to reject a high bid for a competitive oil and gas lease as inadequate. 30 U.S.C. § 226(b) (1976); 43 CFR 3120.3-1. This Board has consistently upheld that authority so long as there is a rational basis for the conclusion that the highest bid does not represent a fair market value for the parcel. Harold R. Leeds, 60 IBLA 383 (1981); William C. Welch, 60 IBLA 248 (1981); Harry Ptasynski, 48 IBLA 246 (1980); B. D. Price, 40 IBLA 85 (1979). Departmental policy in the administration of its competitive leasing program is to seek the return of fair market value for the grant of leases and the Secretary reserves the right to reject a bid which will not provide a fair return. Coquina Oil Corp., 29 IBLA 310, 311 (1977).

[2] BLM is the Secretary's technical expert in matters concerning geologic evaluation of tracts of land offered at a competitive oil and gas lease sale. The Secretary is entitled to rely on its reasoned analysis if a comprehensible explanation of it is in the record of BLM's decision. L. B. Blake, 67 IBLA 103 (1982); Gerald S. Ostrowski, 34 IBLA 254 (1978).

This Board will not substitute its judgment for BLM's in these matters; but we will not accept BLM's judgment without "sufficient facts and a sufficiently comprehensible analysis to insure that a rational basis for the determination is present." Robert M. Paglee, 68 IBLA 231, 234 (1982). We have recently outlined some of the kinds of facts that may be relevant, depending on the circumstances of the particular case. Exxon Corp., 73 IBLA 176 (1983); Nortex Gas & Oil Co., 72 IBLA 379 (1983); Larry White, 72 IBLA 242, 247 (1983).

We require that the estimated fair market value be included among the facts provided. Edward L. Johnson, 73 IBLA 253 (1983); Amoco Production Co., 71 IBLA 241 (1983); Petrovest, Inc., 70 IBLA 250 (1983). We have found a post-appeal memorandum which specified a pre-sale acceptable minimum to be sufficient. Read & Stevens, 70 IBLA 377, 380 (1983). Although BLM provided a brief summary of some of the facts used in making its determination in this

case, it did not provide this critical figure. Here, unlike Blake, supra, we have merely a reference to the Monte Carlo simulation and the input data without a report of the application of the program to the bids received other than a conclusionary statement that the bid was too low. 1/

Therefore, we remand this case to BLM for readjudication of appellant's bid. If the bid is rejected again, BLM shall set forth its reason for doing so, including the presale evaluation, so the Board can properly consider it in the event of an appeal.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the New Mexico State Office is set aside and the case is remanded for further consideration consistent with this opinion.

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R. W. Mullen  
Administrative Judge

We concur:

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James L. Burski  
Administrative Judge

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Anne Poindexter Lewis  
Administrative Judge

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1/ We note that in the initial report the Deputy Minerals Manager, Resource Evaluation, BLM, found bids on 23 parcels to be lower than the presale estimated value. Of these 18 were found acceptable. Therefore, it is obvious that, just because a bid is lower than the presale calculation it is not summarily rejected. One could assume that the appellant's bid must have been much lower than the presale figure. If this were the case, the presale calculation amount would have supported the determination. This Board will not summarily overturn BLM determinations based upon minor errors. In order for an error to be used by this Board to overturn the BLM decision it has to be of such magnitude that there is reason to believe that, if corrected, the presale calculation would be less than or very close to the bid value. However, we cannot even make this determination if BLM does not furnish the requisite factual information.

